



State of Delaware  
Department of Natural Resources & Environmental Control  
**Delaware Division of Parks and Recreation**

89 Kings Highway  
Dover, Delaware 19901

**OPEN SPACE COUNCIL  
MINUTES**

Legislative Hall  
Senate Hearing Room, Second Floor  
Dover, DE  
December 6, 2005  
9:00 a.m.

**ATTENDANCE**

Council Members

Lynn W. Williams, Chairperson  
Nathan Hayward III  
Harvey Marvel  
John Mackenzie  
William Powers, Jr.  
Representative Robert J. Valihura, Jr.

Ex-Officio Members

Charles Salkin	State Liaison Officer
Michael Scuse	Department of Agriculture
Tim Slavin	Department of State

Advisory to:

John A. Hughes,	Department of Natural Resources & Environmental Control
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Staff

Karley Barnes	DEDO
Karen Bennett	Fish & Wildlife, DNREC
Phil Carpenter	Parks and Recreation, DNREC
Phil Cherry	Cabinet Secretary's Office, DNREC
Matt Chesser	Parks and Recreation, DNREC
Tim Kaden	Parks and Recreation, DNREC
Austin Short	Department of Agriculture
Ron Vickers	Parks and Recreation, DNREC
Bill Whitman	Fish & Wildlife, DNREC
Bob Zimmerman	Cabinet Secretary's Office, DNREC
Lee Ann Walling	Governor's Office
Rose Ryödi	Parks and Recreation, DNREC

Public

Blaine Phillips	The Conservation Fund
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I. Call to Order/Announcements

The meeting was called to order by Lynn Williams, Chairperson, at 9:15 a.m. A quorum was present.

Mrs. Williams announced that she had received a resignation letter from Council Member Louis Burton who was resigning effective today, and would not be attending today's meeting. The Council is left with 10 members. Mr. Burton plans to move to Galena, MD. With the Council's pleasure, Mrs. Williams will write an acceptance letter of regret.

II. Review of Minutes of the September 13, 2005 Meeting

The minutes of the September 13, 2005 meeting of the Open Space Council were presented for review. It was moved and seconded to approve the minutes as presented.

Mrs. Williams said there were copies of two letters included in the Minutes package that are related to the legislative request to provide Open Space Council support in locating and purchasing land for several Sussex County events such as the Punkin Chunkin Festival, the Hispanic Festival, the Nanticoke Indian "Pow Wow," and the Hot Air Balloon Festival. Secretary Hayward said that he and Secretary Scuse were aware of another property that may work for this and would discuss it in association with other items later on the agenda.

III. Financial Report

The Open Space Program Fund Summary was discussed. Currently there is \$5,857,395.02 left in the program account for Fiscal Year 2006. There are ten (10) previously approved projects totaling \$4,894,737.00. Therefore, total funds available for the remainder of this Fiscal Year 2006 are \$962,658.02.

Mr. Vickers distributed a summary of funding commitments that revealed a balance of \$1,480,573.00 for FY07.

The Council reviewed the updated Open Space Inventory.

The following properties have been settled since the last meeting:

- |  |           |
|--|-----------|
| • Lower Delaware River State Resource Area | Cornelius |
| • Blackbird State Resources Area           | Gonce     |
| • Blackbird State Resource Area            | Franzen   |
| • Kent County Stand Alone                  | Fortney   |
| • James Branch State Resource Area         | Keller    |

2007 Commitments

- |                      |             |                           |
|----------------------|-------------|---------------------------|
| • Initial Funding    |             | \$9,000.000               |
| • Borchardt          | \$ 541,437  | Last payment              |
| • DuPont Trust (NF4) | \$1,520,000 | Last payment              |
| • McClements         | \$ 600,000  | Last payment              |
| • McClements II      | \$ 157,990  | Last payment              |
| • Savage             | \$2,200,000 | Pay over two fiscal years |
| • Reynolds           | \$2,500,000 | If necessary              |

**Remaining Funds for '07**

**\$1,480,573**

The Reynolds property was purchased with funds from The Nature Conservancy, Department of Transportation and the Open Space Program. The Nature Conservancy is the fee owner with the

State holding a conservation easement on the property. A conservation buyer must be secured by December 2006 or the Open Space Program must pay The Nature Conservancy \$2,500,000 and the State will then be the fee owner. If a conservation buyer purchases the property by December 2006, then an additional \$2,500,000 will be available for other projects from the FY '07 funds.

- Representative Valihura asked what are the chances the property will be sold to a conservation buyer.
- Secretary Hayward said that he was partly responsible for the purchase of property. The Reynolds property belonged to Mrs. Eleanor Marshall Reynolds and was in the family for over 100 years. The property, about 125 acres, is a beautiful piece of land with several rare plant species. Secretary Hayward is continuing to pursue conservation buyers and is confident one will soon agree to purchase the property with the conservation easement on the land.
- Rep. Valihura said Open Space Council and State must be financially prepared since they have obligated themselves to purchasing this property.
- Secretary Hayward said property prices have escalated exponentially and the \$9 million the Open Space program receives each year does not go far enough. Attempts must be made to supplement this from other sources.
- Mrs. Williams said funding options will be discussed in today's agenda and that going back to the legislature is an option that must be taken.

#### IV. Agency and Public Presentations

##### A. State Resource Area Maps

- Mr. Salkin gave a brief introduction, giving reference to the beginning of Open Space Program and enabling legislation, the Land Protection Act, in 1990. One of the main purposes was to protect land that the four qualifying state agencies identified as priority areas. These agencies, the Division of Parks and Recreation, the Division of Fish and Wildlife, the Forest Service, and the Division of Historical and Cultural Affairs, could receive funding from the Open Space Program to acquire fee title or conservation easements on these lands. The targeted areas, for the most part, were in-holdings to, expansions of and connectors with other state, federal and conservation organization lands. These areas were known as State Resource Areas and were mapped in 1990. Another part of the Land Protection Act called upon the counties to establish environmental overlay zones and performance standards for the lands encompassed within the State Resource Areas. The emphasis of the program over the last 15 years was focused on acquiring land for the state agencies. In that regard it has been a hugely successful program. However, the other aspect of overlay zones has not received as much attention. Each county has addressed natural resource protection to varying degrees. For example, New Castle County has an ordinance that addresses how much develop can take place in state-designated natural areas. Governor Minner, through the Livable Delaware effort, is addressing other land use growth zone issues. Each county is now required to complete a comprehensive land use plan every five years that is certified by the State Planning Office. The Natural Areas Advisory Council is in the midst of revising the maps associated with that program, which emphasizes the best natural habitats and most rare locations. This project is ready to go out for public comment and is a very important part of overall land protection in the State. The Green Infrastructure Subcommittee, which reported to the Livable Delaware Committee, mapped lands in 3 categories: high quality agricultural lands, working forests, and natural and recreational lands. Recently the Division of Fish and Wildlife developed a statewide Wildlife Action Plan in response to federal programs. The Division of Parks and Recreation conducts a periodic Statewide Comprehensive Outdoor Recreation Plan that addresses public needs. The Greenways and Trails program looks at the interconnectivity of protected lands. So there are many programs acting on many fronts. The State Resource Area maps, which we have been working with in this program, were developed 15 years ago. We all acknowledged in the first years of this program, that we missed mapping some important pieces. We are required, under

statute, to address these issues every five years. We are ready to do this in an official way. This coincides with the next round of county comprehensive plans. Our efforts to revise the State Resource Area maps also correspond well with the other statewide efforts mentioned. All of these things have been coming together, so that today, for the first time, we can show you what the recommendations are for a more broadly defined set of state resources areas. By law the Open Space Council recommends the State Resource Area maps to the Secretary of the Department of Natural Resources and Environmental Control. There will be a public participation process with a workshop in each county. Once new maps are approved, they will be provided to the counties to incorporate into their plans and to begin to address the issue of overlay zones.

- Rep Valihura asked if the counties were provided the SRA maps in the past.
- Mr. Salkin responded that maps were provided to the counties in the past. However, our mapping technology and data have increased greatly and the information is much better now. Mr. Vickers presented the Council with a handout accompanying a power point presentation on the proposed revision to the State Resource Area maps. The handout includes a copy of the Land Protection Act and a sheet with the definition of state resource area and open space from the law. He also went over the types of data used in preparing the maps: many existing maps, a variety of resource features, a protected lands layer, and a proposed development layer. Additionally he provided information on acreage figures for various layers including the current and proposed Natural Areas (red layer), the current State Resource Areas (blue layer), the current Green Infrastructure layers (green layer), and protected lands (brown layer). The presentation showed each of the color-coded layers in various combinations throughout the state and on a county by county basis.

There was a lengthy discussion on the subject of the different colored layers. Council was concerned that the public and land developers would not accept the State presenting so much land for protection and preservation. Sec. Hughes said most of the east coast area was protected tidal marsh. Sec. Hayward was concerned about the backlash from the public and the perception of the Open Space Council. He stated growth has to live side by side with preservation and we must make these distinctions throughout the counties. Mr. Vickers said the green layer has been adopted and is being used in the PLUS development review process which addresses major subdivision proposals. Rep. Valihura reiterated that the public would not be happy seeing 70% of the state in green. Mr. Mackenzie suggested how the layers were presented would greatly influence the perception of the amount of protection. Mrs. Williams asked if there was any way Council could approve the different layers with different strength of approvals. Mr. Salkin said Council, by statute, recommends to the Secretary what lands are included in the SRAs. Those areas would move forward to the counties for use on the comprehensive plans and to address the overlay zones. Mr. Vickers said Council could recommend and endorse any level of items. Sec. Hughes said the Council could recommend anything, but we do not know how the counties would react to any decisions.

At this point Mrs. Williams interrupted the discussion because of time constraints and needing a quorum to act upon recommendations. She suggested tabling further discussion and taking up the other agenda item on funding at a later time. Secretary Hughes requested a special meeting in January to further discuss this issue which was too complex to resolve in this session. A motion was made, seconded and agreed that a special meeting be held on January 10, 2006. A motion was made, seconded and agreed to go into Executive session.

V. Discussion of Site Acquisition Contracts - Executive Session

The Council adjourned to Executive Session at 11:10 a.m. to discuss site acquisition contracts.

The Council returned to Open Session at 11:35 a.m.

VI. Council Recommendations

Based on discussion in Executive Session the Council determined the following:

- A. Ellendale/Redden – Glatfelter-Tunnell Property: It was moved, seconded, and agreed, based on discussion in Executive Session to assist in the purchase the 755  $\pm$  acres of Glatfelter - Tunnell land. The total sales price is \$12 million. The funds would be a combination of federal, state and private money. The Conservation Fund is brokering the deal. The Open Space Program funds would be up to \$3,000,000 payable in December 2007 (FY 08 funds). Depending on the combination of fee simple and conservation easement lands the program commitment could be less.
- B. White Clay Creek – Robinson Property: It was moved, seconded, and agreed, based on discussion in Executive Session, to purchase the 13.39  $\pm$  acres. The Open Space Program funds would be up to \$1.1 million. Rep. Valihura abstained because he was not at the first presentation.

VII. Next Meeting

The next meeting will be held on Tuesday, January 10, 2006 at 9:00 a.m. at Legislative Hall in the Senate Hearing Room. This is a special meeting called to discuss three topics that were not concluded in the December 6, 2005 meeting:

- 1. State Resource Area maps - continue discussion on revisions and integration with the next round of county comprehensive plans
- 2. Open Space Program funding- options for additional funds and sustainability
- 3. Council membership- according to legislation signed on July 2, 2004, the Council increased from 9 members to 11 members. This is in effect until July 2, 2006 when the Council membership is to revert to 9 members.

VIII. Adjournment

The meeting was adjourned at 11:40 a.m.

Respectfully submitted,  
Rose Ryödi